

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1043-02
Bill No.: HCS for HB 299
Subject: Business and Commerce; Revenue Department; Taxation and Revenue - Sales and Use
Type: Original
Date: March 3, 2015

Bill Summary: This proposal would require the Department of Revenue to notify sellers if there is a change in sales tax law interpretation.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
General Revenue	(Less than \$425,394)	(Less than \$435,213)	(Less than \$445,547)
Total Estimated Net Effect on General Revenue	(Less than \$425,394)	(Less than \$435,213)	(Less than \$445,547)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
General Revenue	1 FTE	1 FTE	1 FTE
Total Estimated Net Effect on FTE	1 FTE	1 FTE	1 FTE

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** assume this proposal could reduce Total State Revenues (TSR) by an unknown amount but would not impact the calculation required under Article X, Section 18(e) of the state constitution.

BAP officials noted this proposal would require the Department of Revenue (DOR) to notify sellers of any change in sales tax law that results from a decision by the DOR, the Administrative Hearing Commission, or a court. BAP officials assume this would relieve the seller of any obligation to collect and remit tax until such notification is received, and would reduce TSR by an unknown amount.

Officials from the **Department of Revenue (DOR)** assumed a previous version of this proposal would require the department to notify all affected businesses if the department, the Administrative Hearing Commission, or a court of competent jurisdiction changes the sales tax due on sales of tangible personal property or taxable services.

DOR officials assumed there would be no tax due until the seller receives notification of a tax decision unless the seller had not been selling the product or service at the time of the decision, and stated this provision would allow any seller of a new product, or a product for which no express decision of taxability has been made, to avoid sales tax liability until notified of the collection requirements.

Fiscal impact

DOR officials assumed the notification requirement would reduce Total State Revenue by an unknown amount, and would result in additional costs for personnel and postage.

ASSUMPTION (continued)

Oversight does not have any way to estimate the number of decisions or the amount of sales tax due that might be affected by this provision; however, Oversight assumes the proposed waiver of liability for taxes would only apply to businesses actively selling the type of tangible personal property or service affected by the decision on the date the decision is made or handed down. The waiver would not apply to any seller that has previously remitted tax on the tangible personal property or taxable services subject to the decision, nor to any business that had prior notice that the seller must collect and remit the tax. Accordingly, any prospective revenue reduction from the notification requirement would appear to be minimal and Oversight will not include a revenue reduction in this fiscal note.

Administrative impact

DOR officials assumed Collections and Tax Assistance (CATA) would have additional customer contacts with questions on letters received by customers, and would require one additional Revenue Processing Technician I (Range 10, Step L) for additional contacts to the registration section and tax assistance offices. Each technician would require CARES equipment and license.

DOR officials noted the Department does not maintain information regarding items sold by each business, and assume Sales Tax would need to notify approximately 140,000 businesses registered for sales and use tax in Missouri any time the state sales tax requirements change. DOR officials assume the notifications could be required up to five times per year, depending on the types of cases heard by the courts. DOR officials stated the Department is unsure how it would notify businesses that sell taxable tangible personal property or services but are not currently registered for sales tax or use tax reporting.

DOR officials estimated the annual cost of notifications as (140,000 businesses x 5 notices per year) = 700,000 mailings per year, costing (700,000 mailings per year x \$0.555 cost per notice) \$388,500.

ASSUMPTION (continued)

Oversight does not have information as to the number of decisions by the Department of Revenue, the Administrative Hearing Commission, or the courts regarding sales tax issues, but assumes the mandatory notification requirement could result in significant additional cost to DOR. Oversight assumes existing periodic communication with sellers of goods and taxable services would meet the mandatory notification requirement in this legislation for registered sellers and reduce the cost of implementing this proposal. Oversight also assumes DOR would not be required to directly contact unregistered businesses regarding sales or use tax decisions; the Department could notify unregistered merchants of sales tax program changes through notifications for other DOR programs, in publications, and on the DOR website. Also, the HCS allows notification through electronic means. Oversight assumes the mailing cost to implement this proposal would be less than the DOR estimate.

DOR officials assumed Sales Tax would not need additional staff to issue the notifications, but up to 40 hours of overtime may be required, and the Department would need computer programming by ITSD to create a notifications process. Finally, DOR officials assume the notifications may result in additional contacts from taxpayers.

The DOR estimate of cost to implement the provision including one additional employee, the related benefits, equipment and expense, and the cost of mailing five notifications per year to businesses totaled \$429,896 for FY 2016, \$440,488 for FY 2017, and \$450,882 for FY 2018.

Oversight assumes the DOR estimate of expense and equipment cost for the new FTE could be overstated. If DOR is able to use existing desks, file cabinets, chairs, etc., the estimate for equipment could be reduced by roughly \$6,000 per new employee.

Oversight has, for fiscal note purposes only, changed the starting salary for the additional employee to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees and policy of the Oversight Subcommittee of the Joint Committee on Legislative Research. Oversight has also adjusted the DOR estimate of equipment and expense in accordance with OA budget guidelines. Finally, Oversight assumes a limited number of additional employees could be accommodated in existing office space.

ASSUMPTION (continued)

IT impact

DOR officials provided an estimate of the IT cost to implement this proposal of \$5,994 based on 79.92 hours of contractor programming to make changes to DOR systems.

Oversight assumes OA - ITSD (DOR) is provided with core funding to handle a certain amount of activity each year and could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, OA - ITSD (DOR) could request additional funding through the budget process.

Officials from the **Office of the Secretary of State** assumed a previous version of this proposal would have no fiscal impact on their organization.

Officials from the **Joint Committee on Administrative Rules** assume this proposal would have no fiscal impact on their organization beyond existing resources.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
GENERAL REVENUE FUND			
<u>Cost - Department of Revenue</u>			
Salaries	(\$20,321)	(\$24,283)	(\$24,526)
Benefits	(\$10,089)	(\$12,107)	(\$12,228)
Equipment and expense	(\$6,484)	(\$610)	(\$625)
	(Less than	(Less than	(Less than
Printing and mailing	<u>\$388,500)</u>	<u>\$398,213)</u>	<u>\$408,168)</u>
<u>Total cost</u>	(Less than	(Less than	(Less than
	<u>\$425,394)</u>	<u>\$435,213)</u>	<u>\$445,547)</u>
Estimated FTE Change - Department of Revenue	1 FTE	1 FTE	1 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	(Less than	(Less than	(Less than
	<u>\$425,394)</u>	<u>\$435,213)</u>	<u>\$445,547)</u>
Estimated Net FTE Effect on General Revenue Fund	1 FTE	1 FTE	1 FTE
 <u>FISCAL IMPACT - Local Government</u>			
	FY 2016 (10 Mo.)	FY 2017	FY 2018
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

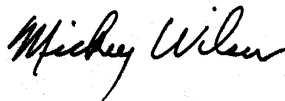
The proposed legislation would require the Department of Revenue to notify affected sellers when a change in the amount of sales tax due is modified by a decision of the department director, Administrative Hearing Commission, or a court that revises which items or services are taxable 90 days before the modification can take effect for the sellers.

The notification could be by email or other similar secure electronic means. If the department fails to notify a seller of the change, the seller would not be liable for the additional taxes due under the modification until the seller is notified.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Secretary of State
Joint Committee on Administrative Rules
Office of Administration
Division of Budget and Planning
Department of Revenue



Mickey Wilson, CPA
Director
March 3, 2015

Ross Strobe
Assistant Director
March 3, 2015